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Filing date: **06/28/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054802
Party	Plaintiff BHPC Associates LLC
Correspondence Address	ROBERT L EPSTEIN EPSTEIN DRANGEL LLP 60 EAST 42ND STREET, SUITE 2410 NEW YORK, NY 10165 UNITED STATES repstein@ipcounselors.com
Submission	Other Motions/Papers
Filer's Name	Robert L. Epstein
Filer's e-mail	mail@ipcounselors.com
Signature	/robert l. epstein/
Date	06/28/2012
Attachments	062812 Motion.pdf (4 pages)(107897 bytes) 062812 Motion-Exhibit A color.pdf (27 pages)(7473432 bytes) 062812 Motion-Exhibit B.pdf (6 pages)(1707662 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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BHPC ASSOCIATES LLC,	:	
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Petitioner,	:	Cancellation No. 92054802
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v.	:	
	:	
	:	
OLEMBERG, FABIAN CLAUDIO	:	
	:	
Registrant.	:	
	X	

**MOTION FOR LEAVE TO FILE AMENDED
PETITION FOR CANCELLATION**

Petitioner, BHPC ASSOCIATES LLC, hereby moves for leave to file an Amended Petition for Cancellation in the above captioned case to include an additional a cause of action based upon fraud, pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure. A copy of the proposed amended pleading is annexed hereto as Exhibit A.

Petitioner served a first set of interrogatories and a first set of requests for production on Registrant on or about April 11, 2012. Registrant responded to Petitioner's discovery on May 30, 2012. In its responses to the interrogatories, Registrant admits that its registered mark has been used in commerce only in connection with shirts, sport shirts, sweatshirts, and T-shirts. Further, in response to a request for document production, Registrant provided copies of invoices from its U.S. licensee indicating that prior to August 10, 2011, only two cartons containing what is described on the invoices as "Santa Fe Polo" had been sold in commerce.

In Registrant's Application No. 77660964, upon which the registration here at issue is based, a Statement of Use was filed on behalf of Registrant by its attorney, Arturo Perez-Guerrero. A copy of that Statement of Use, and of the accompanying specimens, is annexed hereto as Exhibit B.

The Statement of Use was filed August 10, 2011. The Statement of Use contained the following representations:

"The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as a subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 09/17/2008, and first used in commerce at least as early as 04/07/2011, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) photographs of the products bearing the mark.

Specimen File1
Specimen File2"

The application included the following identification of goods:

"For International Class 025:

Current identification: Coats, Footwear for men; Hats; jackets: men's suits: Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters: T-shirts; Ties; Trousers; Vests"

The identification of goods in the application included eighteen separate items of clothing. Registrant's responses to Petitioner's discovery indicate that Registrant's mark had been used only on a single item (Santa Fe Polo) prior to August 10, 2012, the date the Statement of Use was filed. Thus, at the time the Statement of Use was filed, Registrant's mark had not been used on seventeen of the eighteen items listed in the identification of goods.

It therefore appears that the representations with respect to use set forth in the Statement Use filed on behalf of the Registrant in the application upon which the registration sought to be cancelled were false.

Further, two specimens accompanied the Statement of Use when it was filed. One of those specimens included images of a variety of goods, including jeans, a shirt, underwear, women's shoes, a blanket ("Blanco") and a bag ("Bolsos"). Except for the shirt, which displayed Registrant's mark on its front, the other goods are shown in association with a hang tag or packaging bearing Registrant's mark. The second specimen shows a pair of jeans with a tag bearing Registrant's mark.

As set forth in the Statement of Use, the specimens were submitted to show the mark "as used in commerce". However, according to Registrant's responses to Petitioner's discovery, of the items shown on the specimens, the mark had actually only been used only on shirts prior to the filing of the Statement of Use. The images indicating use on the other items shown constituted an additional false representation as to the use of Registrant's Mark.

The false representations as to use of Registrant's mark in commerce in the Statement of Use and accompanying specimens constitute material representations which, if made with intent to deceive, are grounds for cancellation of the registration at issue independent of confusing similarity. The amendment to the Petition which Petitioner here seeks leave to file is based upon the above facts, which clearly support the allegations set forth in the proposed additional cause of action.

With respect to amendments to the pleadings, Rule 15(a)(2) states that "The court should freely give leave when justice so requires."

The Supreme Court of the United States, in *Forman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962) in construing Rule 15(a)(2) held that in the absence of some identifiable justification for denying leave to amend — i.e., undue delay, bad faith, or dilatory motive by the movant — leave to amend should be granted, and that a court abuses its discretion

in denying leave to amend in the absence of such reasons. See MOORE'S FEDERAL PRACTICE, §§ 15.14, 15.15 (Matthew Bender 3d ed.), as well as *Bryant v. Dupree*, 252 F.3d 1161, 1163-1165 (11th Cir. 2001); *Shane v. Fauver*, 213 F.3d 113, 115-117 (3d Cir. 2000); *Popp Telecom v. American Sharecom, Inc.* 210 F.3d. 928, 943-944 (8th Cir. 2000) and *Griggs v. Pace Am. Group, Inc.* 170 F. 3d. 877, 881 (9th Cir. 1999).

The amendment for which Petitioner seeks to leave to file is being submitted within the discovery period and shortly after Petitioner became aware of the underlying facts as set forth in Registrant's discovery responses. As such, it will not prejudice the Registrant in any way and is timely made. Further, the proposed amendment is clearly not legally insufficient in view of the admitted facts and hence is not futile.

On June 25, 2012, the undersigned wrote Perla Kuhn, Registrant's attorney, advising of Petitioner's intent to file this motion and forwarding a copy of the proposed motion, including the proposed Amended Petition for Cancellation. On June 27, 2012, Ms. Kuhn advised the undersigned that Registrant does not object to the proposed motion for leave to amend the Petition for Cancellation.

Dated: June 28 , 2012

Respectfully submitted,


Robert L. Epstein, Esq.

EPSTEIN DRANGEL LLP
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel. No.: (212) 292-5390
Fax. No.: (212) 292-5391

Attorneys for Petitioner
BHPC ASSOCIATES LLC

EXHIBIT A

Petitioner's Motion for Leave to Amend Petition For Cancellation

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

	X	
BHPC ASSOCIATES LLC,	:	
	:	
Petitioner,	:	Cancellation No. 92054802
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v.	:	
	:	
OLEMBERG, FABIAN CLAUDIO	:	
	:	
Registrant.	:	
	X	

AMENDED PETITION OF CANCELLATION

Petitioner, BHPC Associates LLC, of 1370 Broadway, New York City, New York 10018, believes that it is being damaged by Registration No. 4042469 issued October 18, 2011 for the trademark








and therefore petitions to cancel said registration.

As grounds for its petition, Petitioner, by and through its undersigned attorneys, alleges as follows:

1. Continuously and long prior to the filing date of February 2, 2009 of Application Serial No. 77660964 upon which Registration No. 4042469 is based, Petitioner has offered and continues to offer a variety of goods, including clothing, perfume and leather accessories bearing the mark BEVERLY HILLS POLO CLUB and a design including the image of a polo player on horseback swinging his mallet (the "BEVERLY HILLS POLO CLUB and Polo Player Design mark").

2. Over a prolonged period of time, Petitioner has invested a substantial amount of time, effort and money promoting its BEVERLY HILLS POLO CLUB and Polo Player Design mark and the goods bearing that mark. As a result of its promotional efforts, a tremendous volume of sales, and extensive use of the BEVERLY HILLS POLO CLUB and Polo Player Design mark, Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark has attained widespread acclaim in the United States, and has come to be exclusively recognized as identifying the products of Petitioner. Since long before any use of or alleged rights of Applicant in the mark hereby opposed, Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark has become distinctive of Petitioner's goods and represents a tremendous amount of goodwill of Petitioner's business.

3. In addition to its common law rights, Petitioner owns the following incontestable United States trademark registrations of the BEVERLY HILLS POLO CLUB and the Polo Player Design mark for use in the aggregate in connection with Petitioner's goods:

MARK	Class(es)	REGISTRATION NUMBER	REGISTRATION DATE
	25	1429311	02-17-1987
	09,14,18,24,25	1751058	02-09-1993
	03	2091892	08-26-1997
	18	2181220	08-11-1998
	25	2214846	12-29-1998

4. Petitioner's registrations are valid, subsisting, in full force and effect, incontestable, and are evidence of Petitioner's exclusive rights to use its registered marks on the identified goods, pursuant to 15 U.S.C. §§ 1057 and 1115. Current printouts from the electronic database records of the United States Patent and Trademark Office of the aforementioned incontestable registrations are attached hereto as **Exhibit A**.

5. Upon information and belief, Fabian Claudio Olemberg ("Registrant") filed with the United States Patent and Trademark Office an Intention to Use Application Ser. No. 77660964 dated February 2, 2009, for the trademark



for the following goods: "Coats; Footwear for men; Hats; Jackets; Men's suits; Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters; T-shirts; Ties; Trousers."

6. Upon information and belief, said Application Ser. No. 77660964 was allowed by the United States Patent and Trademark Office and issued into Registration No. 4042469 on October 18, 2011, the registration which Petitioner seeks to cancel.

7. Registrant is not connected to Petitioner in any way and has not been authorized by Petitioner to use the mark of Registration No. 4042469.

COUNT I: Priority and Likelihood of Confusion

8. Petitioner repeats and re-alleges each and every allegation contained in paragraphs 1 through 7 as if fully set forth herein.

9. Upon information and belief, Petitioner acquired rights in the BEVERLY HILLS POLO CLUB and Polo Player Design mark prior to any date on which Applicant can rely in connection with the mark of Registration No. 4042469.

10. Petitioner's BEVERLY HILLS POLO CLUB and Polo Player Design mark is the same as or similar to the mark of Registration No. 4042469 in appearance, sound, meaning and commercial impression, both marks including the word POLO and confusingly similar polo player images, arranged in a similar manner, with the confusingly similar polo player images situated above the word POLO.

11. The goods of the respective parties are identical or commercially related, and/or the conditions and activities surrounding the marketing of same are such that they would or could be encountered by the same persons under circumstances that could give rise to the mistaken belief that they originate from the same source.

12. As a result, the mark of Registration No. 4042469, when used in connection with the goods identified said registration, is likely to cause confusion or mistake or to deceive and mislead the trade and the purchasing public into believing that Registrant's goods are the goods of Petitioner, or that Registrant or its goods are authorized, licensed or controlled by Petitioner, or that Registrant is affiliated with or in some way related to Petitioner. Accordingly, any such use or/and the continued registration of the mark of Registration No. 4042469 would and does violate Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d).

13. By reason of the foregoing, Petitioner will be damaged by the continued registration of the mark of Registration No. 4042469.

COUNT II: Fraud

14. Petitioner repeats and realleges each of the allegations set forth in Paragraphs 1 through 13 of the Petition above, as though same were fully set forth herein.

15. During the course of the prosecution of the application upon which Registration No. 4042469 is based, Petitioner's attorney, on August 10, 2011, filed a Statement of Use on behalf of Registrant. A copy of the Statement of Use is attached hereto as **Exhibit B**.

16. The Statement of Use filed on behalf of Registrant contained the following representation: "The mark is in use on or in connection with all goods or services listed in the application or in the Notice of Allowance..."

17. The Statement of Use filed on behalf of Registrant also contained the following representation: "The applicant is submitting one specimen for the class showing the mark as used in commerce or in connection with any item in the class, consisting of a(n) photographs of products bearing the mark."

18. The Statement of Use filed on behalf of Registrant was accompanied by two specimens, one of the specimens is an image of multiple items bearing the trademark of Registration No. 4042469 and the other specimen is an image of a tag bearing the trademark of Registration No. 4042469 attached to a pair of jeans. Attached hereto as **Exhibit C** is a copy of each of the specimens submitted with the Statement of Use.

19. The Statement of Use, the representations as to the use of the mark in commerce contained therein, and the accompanying specimens, were submitted on behalf of Registrant to induce the USPTO to issue Registration No. 4042469, were relied upon by the USPTO in issuing Registration No. 4042469, and the USPTO would not have issued Registration No. 4042469 without same. Accordingly, the Statement of Use, the representations as to the use of the mark in commerce contained therein, and the accompanying specimens submitted on behalf of Registrant were material to the registerability of Registrant's mark.

20. As of August 10, 2011, the date of filing of the Statement of Use, Registrant had not used the mark in commerce on at least fourteen of the sixteen items of goods listed in the application upon which Registration No. 4042469 is based.

21. As of August 10, 2011, the date of filing of the Statement of Use, Registrant had not used the mark in commerce on any of the goods depicted in the specimens which accompanied the Statement of Use, except for shirts.

22. The representations as to the use of the mark in commerce contained in the Statement of Use were false.

23. The specimens which accompanied the Statement of Use falsely depicted goods as if such goods were in use in commerce.

24. The Statement of Use and the representations as to the use of the mark contained therein were made by or on behalf of Registrant with knowledge of the falsity thereof.

25. The Statement of Use and the representations as to the use of the mark contained therein were made by or on behalf of Registrant with a reckless disregard for the truth or validity thereof.

26. The specimens submitted with the Statement of Use which falsely depicted goods as if such goods were in use in commerce were submitted by or on behalf of Registrant with knowledge of the falsity thereof.

27. The specimens submitted with the Statement of Use which falsely depicted goods as if such goods were in use in commerce were submitted by or on behalf of Registrant with a reckless disregard for the truth or validity thereof.

28. The Statement of Use, the representations as to the use of the mark contained therein were made by or on behalf of Registrant with intent to deceive the USPTO into issuing Registration No. 4042469 when it otherwise would not have issued the registration.

29. The specimens submitted with the Statement of Use which falsely depicted goods as if such goods were in use in commerce were submitted by or on behalf of Registrant with intent to deceive the USPTO into issuing Registration No. 4042469 when it otherwise would not have issued the registration.

30. Registration No. 4042469 would not have been issued by the USPTO had the Statement of Use, the representations as to the use of the mark in commerce contained therein, and the accompanying specimens not been submitted.

31. Registration No. 4042469 is invalid because it was obtained by fraud and should be cancelled in its entirety.

32. By reason of the foregoing, Petitioner will be damaged by the continued registration of the mark of Registration No. 4042469.

WHEREFORE, it is respectfully requested that this petition for cancellation be sustained and that the Registration No. 4042469 be cancelled .

Respectfully submitted,

EPSTEIN DRANGEL LLP

Dated: June , 2011

By: _____

Robert L. Epstein
William C. Wright
Jason M. Drangel
60 East 42nd Street, Suite 2410
New York, New York 10165
Tel. No.: (212) 292-5390
Fax. No.: (212) 292-5391

EXHIBIT A



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Word Mark	BEVERLY HILLS POLO CLUB
Goods and Services	IC 025. US 022 039. G & S: CLOTHING FOR MEN, WOMEN AND CHILDREN-NAMELY SHIRTS, SWEATSHIRTS, SWEAT SUITS, SWEATERS, T-SHIRTS, PANTS, UNDERWEAR, CAPS, JACKETS, [LEOTARDS, DRESSES, PONCHOS]. FIRST USE: 19850218. FIRST USE IN COMMERCE: 19850218
Mark Drawing Code	(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS
Design Search Code	02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans
Serial Number	73568042
Filing Date	November 12, 1985
Current Filing Basis	1A
Original Filing Basis	1A
Published for Opposition	November 25, 1986
Registration Number	1429311
Registration Date	February 17, 1987

Owner (REGISTRANT) GREGORY LANG, INC. CORPORATION CALIFORNIA 1940 LOVELACE AVENUE LOS ANGELES CALIFORNIA 90015

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Karin Segall

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070709.

Renewal 1ST RENEWAL 20070709 .

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**Word Mark****BEVERLY HILLS POLO CLUB****Goods and Services**

IC 009. US 002 026. G & S: ophthalmic eyewear; namely, eyeglass frames, lenses, chains, and cases; eyeglasses; and sunglasses. FIRST USE: 19910531. FIRST USE IN COMMERCE: 19910531

IC 014. US 027. G & S: watches. FIRST USE: 19910831. FIRST USE IN COMMERCE: 19910831

IC 018. US 003 041. G & S: wallets, umbrellas, and small leather goods; namely, credit card cases, key cases, and coin purses. FIRST USE: 19910331. FIRST USE IN COMMERCE: 19910331

IC 024. US 042. G & S: beach towels, bath towels, table linens and textile placemats, and bed and bath accessories; namely, fabric toilet seat covers. FIRST USE: 19910301. FIRST USE IN COMMERCE: 19910301

IC 025. US 039. G & S: clothing for men, women and children; namely, shirts, sweatshirts, sweaters, tee shirts, pants, caps, hats, jackets, dresses, socks, hosiery, raincoats and outerwear; namely, coats and jackets, and belts. FIRST USE: 19891031. FIRST USE IN COMMERCE: 19891031

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen

02.01.31 - Men, stylized, including men depicted in caricature form

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals;

Riding animals, humans
21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Serial Number 74209022
Filing Date October 1, 1991
Current Filing Basis 1A
Original Filing Basis 1A
Published for Opposition November 17, 1992
Change in Registration CHANGE IN REGISTRATION HAS OCCURRED
Registration Number 1751058
Registration Date February 9, 1993
Owner (REGISTRANT) BHP Marketing, Inc. CORPORATION CALIFORNIA 27129 CALLE ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675

(LAST LISTED OWNER) BHP ASSOCIATES LLC LIMITED LIABILITY CORPORATION DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018
Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Dennis G. Martin
Prior Registrations 1429311;AND OTHERS
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20030422.
Renewal 1ST RENEWAL 20030422
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**Word Mark****BEVERLY HILLS POLO CLUB****Goods and Services**

IC 003. US 001 004 006 050 051 052. G & S: perfume [, cologne, toilet water, soap, skin moisturizer and creams] ,shower gel, [shaving cream, shaving lotion, shaving gel, shampoo, baby powder, body powder, face powder, talcum powder, nail polish, nail polish remover, cosmetic pencils, bath and body oil, make-up, lipstick, lip gloss, skin lotions, facial lotions, body lotions, hand cream,] deodorants and anti-perspirants and and after shave lotions. FIRST USE: 19961000. FIRST USE IN COMMERCE: 19961000

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans
 21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Serial Number 74715704**Filing Date** August 15, 1995**Current Filing Basis** 1A**Original Filing Basis** 1B**Published for Opposition** August 27, 1996**Registration Number** 2091892

Registration Date August 26, 1997

Owner (REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 27129 Calle Arroyo Suite 1821 San Juan Capistrano CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED

Attorney of Record Karin Segall and Paul Fields

Prior Registrations 1429311;1687874;1751058;1947244;AND OTHERS

Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN

Type of Mark TRADEMARK

Register PRINCIPAL

Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20070720.

Renewal 1ST RENEWAL 20070720

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Word Mark

BEVERLY HILLS POLO CLUB

Goods and Services

IC 018. US 001 002 003 022 041. G & S: luggage. FIRST USE: 19970715. FIRST USE IN COMMERCE: 19970715

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen
 02.01.31 - Men, stylized, including men depicted in caricature form
 02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans
 02.09.19 - Diving, humans; Humans, including men, women and children, depicted playing games or engaged in other sports; Playing games or sports, humans

Serial Number

75162739

Filing Date

September 9, 1996

Current Filing Basis

1A

Original Filing Basis

1B

Published for Opposition

April 22, 1997

Registration Number

2181220

Registration Date

August 11, 1998

Owner

(REGISTRANT) BHPC Marketing, Inc. CORPORATION CALIFORNIA 620 West 135th Street

Gardena CALIFORNIA 90248

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018**Assignment
Recorded**

ASSIGNMENT RECORDED

Attorney of Record Paul Fields, Amy J. Benjamin, Eric A. Prager and Abigail Rubinstein**Type of Mark** TRADEMARK**Register** PRINCIPAL**Affidavit Text** SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20080720.**Renewal** 1ST RENEWAL 20080720**Live/Dead Indicator** LIVE

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Word Mark

BEVERLY HILLS POLO CLUB

Goods and Services

IC 025. US 022 039. G & S: footwear, namely shoes, boots, slippers, athletic shoes, and golf shoes. FIRST USE: 19941001. FIRST USE IN COMMERCE: 19941001

Mark Drawing Code

(3) DESIGN PLUS WORDS, LETTERS, AND/OR NUMBERS

Design Search Code

02.01.02 - Men depicted as shadows or silhouettes of men; Silhouettes of men
 02.01.19 - Athletes (men); Golfer; Men, athletes, strongmen; Strongmen
 02.09.17 - Humans, including men, women and children, depicted riding horses and other animals; Riding animals, humans
 21.03.04 - Croquet mallets; Lacrosse sticks; Mallets (sports); Mallets, croquet; Mallets, polo; Polo mallets

Serial Number

74558586

Filing Date

August 8, 1994

Current Filing Basis

1A

Original Filing Basis

1B

Published for Opposition

May 9, 1995

Registration Number

2214846

Registration Date

December 29, 1998

Owner

(REGISTRANT) BHPC MARKETING, INC. CORPORATION CALIFORNIA 27129 CALLE

ARROYO SUITE 1821 SAN JUAN CAPISTRANO CALIFORNIA 92675

(LAST LISTED OWNER) BHPC ASSOCIATES LLC LIMITED LIABILITY CORPORATION
DELAWARE 1370 BROADWAY NEW YORK NEW YORK 10018

Assignment Recorded ASSIGNMENT RECORDED
Attorney of Record Paul Fields, Amy J. Benjamin and Abigail Rubinstein
Prior Registrations 1429311;1687874
Disclaimer NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "BEVERLY HILLS" APART FROM THE MARK AS SHOWN
Type of Mark TRADEMARK
Register PRINCIPAL
Affidavit Text SECT 15. SECT 8 (6-YR). SECTION 8(10-YR) 20090121.
Renewal 1ST RENEWAL 20090121
Live/Dead Indicator LIVE

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EXHIBIT B

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

To the Commissioner for Trademarks:

MARK: SANTA FE POLO (stylized and/or with design)

SERIAL NUMBER: 77660964

The applicant, OLEMBERG, FABIAN CLAUDIO, having an address of
La Pampa 2326, Piso 2, Of. 2005
Capital Federal, 1428
Argentina

is submitting the following allegation of use information:

For International Class 025:

Current identification: Coats; Footwear for men; Hats; Jackets; Men's suits; Pants; Rain coats; Shirts; Shorts; Socks; Sport shirts; Sweat shirts; Sweaters; T-shirts; Ties; Trousers; Vests

The mark is in use in commerce on or in connection with all goods or services listed in the application or Notice of Allowance or as subsequently modified for this specific class

The mark was first used by the applicant, or the applicant's related company, licensee, or predecessor in interest at least as early as 09/17/2008, and first used in commerce at least as early as 04/07/2011, and is now in use in such commerce. The applicant is submitting one specimen for the class showing the mark as used in commerce on or in connection with any item in the class, consisting of a(n) photographs of products bearing the mark.

[Specimen File1](#)

[Specimen File2](#)

The applicant is not filing a Request to Divide with this Allegation of Use form.

A fee payment in the amount of \$100 will be submitted with the form, representing payment for the allegation of use for 1 class.

Declaration

Applicant requests registration of the above-identified trademark/service mark in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq., as amended). Applicant is the owner of the mark sought to be registered, and is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the

attached specimen(s) showing the mark as used in commerce.

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the form or any resulting registration, declares that he/she is properly authorized to execute this form on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Signature: /Arturo Perez-Guerrero/ Date Signed: 08/10/2011
Signatory's Name: Arturo Perez-Guerrero
Signatory's Position: Applicant's attorney, Puerto Rico bar member

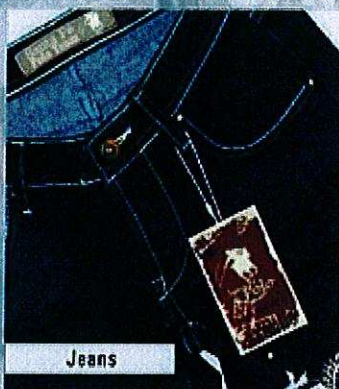
RAM Sale Number: 8436
RAM Accounting Date: 08/10/2011

Serial Number: 77660964
Internet Transmission Date: Wed Aug 10 12:29:11 EDT 2011
TEAS Stamp: USPTO/SOU-66.50.155.244-2011081012291111
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EXHIBIT C



Mujer



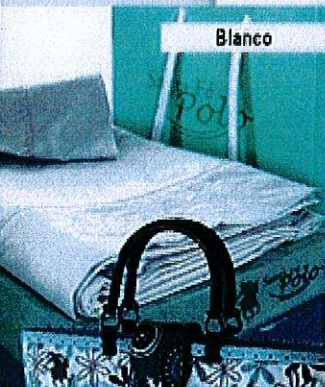
Jeans



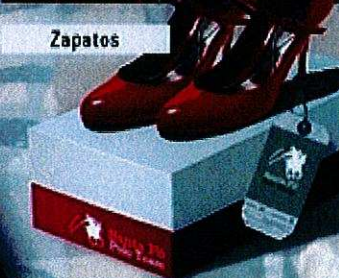
Shirts



Underwear



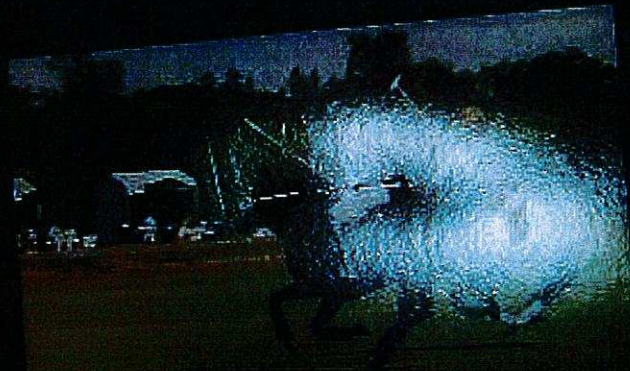
Blanco



Zapatos



Bolsos



Santa Fe Polo

EXHIBIT B

Petitioner's Motion for Leave to Amend Petition For Cancellation

Trademark/Service Mark Statement of Use
(15 U.S.C. Section 1051(d))

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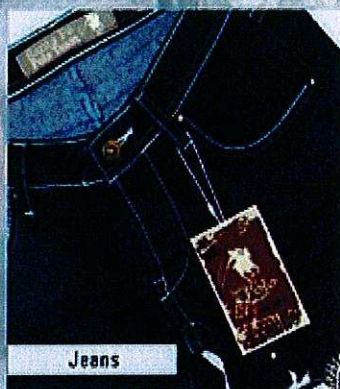
Signature: /Arturo Perez-Guerrero/ Date Signed: 08/10/2011
Signatory's Name: Arturo Perez-Guerrero
Signatory's Position: Applicant's attorney, Puerto Rico bar member

RAM Sale Number: 8436
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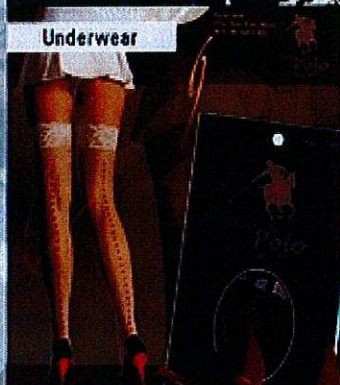
Mujer



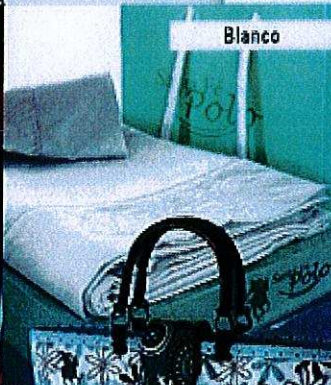
Jeans



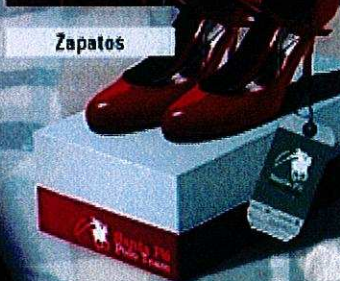
Shirts



Underwear



Blanco



Zapatos



Bolsos

SAVE 25%

NINAPI

ankle boot w
Candy
18.96.

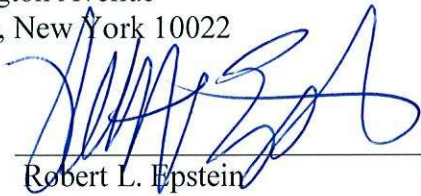


Santa Fe Polo

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing MOTION FOR LEAVE TO FILE AMENDED PETITION FOR CANCELLATION was served upon the Attorney for Registrant on June 28, 2012, by depositing same via First Class Mail, postage pre-paid addressed to:

Perla M. Kuhn, Esq.
Edwards Wildman Palmer LLP
750 Lexington Avenue
New York, New York 10022



Robert L. Epstein